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MEMO ENDORSED , at last page

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January 10, 2023

Via ECF

Honorable Edgardo Ramos
United States District Judge
U.S. District Court for the Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

Re: *So Young Cho v. Osaka Zen Spa, et al.*
Case No. 19-cv-07935

Dear Judge Ramos:

This office represents the Plaintiff, So Young Cho, in the above-referenced matter. We write this letter to respectfully request (1) that the Court issue an Order compelling Defendants Boksil Paula Lee and Osaka Zen Spa to appear for their *in person* depositions at the office of Plaintiff's counsel in New York and (2) for leave to file a motion for default judgment against Defendant Joseph Lee.

On November 11, 2022, Plaintiff filed a letter motion pursuant to Your Honor's Rule 2A and Local Rule 37.2 respectfully requesting the Court (1) compel Defendants Osaka Zen Spa and Boksil Paula Lee to produce documents in their possession, custody or control responsive to Plaintiff's request for documents and (2) compel Osaka Zen Spa and Boksil Paula Lee to appear *in person* for a deposition at the Law Offices of Rudy A. Dermesropian, LLC, 810 Seventh Avenue, Suite 405, New York, NY 10019 [see ECF Doc. No. 71]. On November 16, 2022, Your Honor issued an Order directing Defendants "to respond no later than November 16, 2022" [see ECF Doc. No. 72].

On Saturday, November 12, 2022, counsel for Defendants Osaka Zen Spa and Boksil Paula Lee sent an email seeking consent for an extension of time to respond to Plaintiff's November 11, 2022 letter. Defendants' counsel did not ask for nor propose a specific extension of time to respond to the letter motion. In response, Plaintiff's counsel wrote: "I don't think the Judge will be pleased if we delay further. You were present when Judge Ramos made it clear that he is losing his patience and wants to see things moving. Plus, I don't think more time is needed. Just let the court know that your client has agreed to come to NYC on the week of December 12th and to have her deposition taken *in person*. That's what you told me at least. As far as my availability, I can do any day that week. So just let me know when she will be here and let me know who will appear

on behalf of Osaka Spa. Deposition will be at my office. I also need to know if she will need an interpreter. If she does, would it be a Korean interpreter? Thanks.”

Ultimately, Defendants never filed a response as directed by the Court. Instead, certain emails were exchanged by counsel for the parties attempting to schedule the depositions of Boksil Paula Lee and Osaka Zen Spa to no avail. Plaintiff is looking to take the deposition of Ms. Lee *in person* as indicated in her November 11, 2022 letter motion and as is her right to do so considering that this action is pending in this district and all events occurred in the city and county of New York. Defendant Ms. Lee refuses to come to New York and requests that her deposition be conducted via Zoom.

In addition, on November 15, 2022, Plaintiff’s counsel informed Defendants’ counsel that Plaintiff and her attorney are available for Plaintiff’s deposition on December 20, 2022. In response on November 16, 2022, Defendants’ counsel responds, in part, “Thanks for getting back to me.” However, Defendants have failed to take Plaintiff’s deposition.

As such, Plaintiff seeks an Order compelling Defendant Boksil Paula Lee to appear, in person, to her deposition in New York, or in the alternative, for leave to file a motion to compel should the Court deems such a motion is necessary.

In addition, in compliance with Your Honor’s Order dated November 9, 2022, Plaintiff’s counsel served Defendants Joseph Lee by alternative service via e-mail on November 11, 2022 enclosing the Summons, First Amended Complaint, all of Plaintiff’s discovery demands including notices of depositions, and this Court’s Order granting the motion to serve by alternative service. In said email, Plaintiff’s counsel stated: “Please make sure to answer the Complaint within 21 days as directed in the attached Summons” and notified Defendant Joseph Lee that “Should [he] fail to timely appear in this case or answer the Complaint, we will not hesitate to seek a Default Judgement against [him].” The email address used to serve Defendant Joseph Lee was provided by Mr. Eric Li, counsel for Defendants Osaka Zen Spa and Boksil Paula Lee, who also represented Defendants Joseph and Joshua Lee earlier in this case. Plaintiff’s counsel did not receive any email address for Defendant Joshua Lee.

Defendant Joseph Lee’s time to answer the First Amended Complaint expired on December 2, 2022 and to date Plaintiff’s counsel has not received any communication from or on behalf of either Joseph or Joshua Lee. Accordingly, Plaintiff seeks leave to file a motion for default judgment against Joseph Lee.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,
/s/ Rudy A. Dermesropian
Rudy A. Dermesropian
Managing Member

cc: All counsel of record (via ECF)

Defendants Boksil Paula Lee and Osaka Zen Spa are directed to respond to this letter by Friday, January 13. Plaintiff is granted leave to file a motion for default judgment against Defendant Joseph Lee. SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: January 11, 2023
New York, New York